

### **REMARKS**

The Office Action mailed January 18, 2003 has been received and the Examiner's comments carefully reviewed. Claims 1-9 and 38-40 have been allowed. Claims 18, 19, 21, 22, and 26 have been objected-to. Applicants thank the Examiner for this notification. The specification has been amended to update the claimed priority information. Claims 17, 24, 29, and 31-33 have been amended. Applicants have included herewith a document entitled, "VERSION WITH MARKINGS TO SHOW CHANGES MADE" to indicate how the claims and specification have been amended. Claims 41-45 have been added. No new subject matter has been added. Claim 26 has been cancelled. Claims 1-11, 13-19, 21-26, 27-33, and 37-45 are currently pending. Applicants respectfully submit that the pending claims are in condition for allowance.

It is noted that Applicants have submitted two separate Information Disclosure Statements on February 11, 2000 and February 20, 2001. Copies of the initialed 1449 Forms have not yet been received. Applicants respectfully request that the Examiner return an initialed copy of each the 1449 Forms.

### **Rejections Under 35 U.S.C. §112**

The Examiner rejected claim 23 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particular point out and distinctly claim the subject matter which the applicant regards as the invention.

Applicants note that the antecedent basis of claim 23 was amended in the previous Amendment and Response dated August 20, 2002. Applicants submit that this claim is in condition for allowance.

### **Rejections Under 35 U.S.C. §102**

#### **I. Claims 24, 25, and 27-33**

The Examiner rejected claims 24, 25, and 27-33 under 35 U.S.C. §102(e) as being anticipated by Gould (U.S. Patent 5,961,537). Applicants respectfully traverse these rejections, but have amended claims 24, 29, and 31-33 to advance this application to

allowance. Applicants reserve the right to pursue the original subject matter via a continuing application.

Independent claim 24 has been amended to incorporate the subject matter of objected-to claim 26. Applicants therefore respectfully submit that independent claim 24 and dependent claims 25, 27, and 28 are now in condition for allowance.

Independent claim 29 has been amended to incorporate subject matter similar to that of object-to claim 26. In particular, claim 29 now recites a nasal support device including first and second centering structures. Claims 31-33 have been amended to correspond to amended claim 29. Applicants respectfully submit that independent claim 29 and dependent claims 31-33 are now in condition for allowance.

## II. Claim 17

The Examiner also rejected claim 17 under 35 U.S.C. §102(e) as being anticipated by either Chirila or Sawyer (U.S. Patent 1,950,839 or U.S. Patent 1,292,083). Applicants respectfully traverse these rejections, but have amended claim 17 to advance this application to allowance. Applicants reserve the right to pursue the original subject matter via a continuing application.

Claim 17 has been amended to clarify that the bridge piece includes a strip including first and second lateral regions configured to selectively engage a respective side piece at one location of a plurality of detachable contact locations. The strip provides different support tensions by selectively engaging the side pieces at different locations of the plurality of detachable contact locations of the side pieces. Support for this amendment is found in the specification, for example, on page 36, lines 16-22.

Neither Chirila nor Sawyer disclose side pieces having a plurality of contact locations, or a bridge piece having a strip that provides different support tensions by engage side pieces at different locations on the side piece. In particular, Chirila discloses a spring wire 1 that engages an opening 3 in a suction cup. The suction cup does not have a plurality of detachable contact locations, rather the suction cup has a single opening at which the spring wire 1 can be attached. Further, the spring wire 1 cannot selectively engage the suction cup at different locations to provide different support tensions.

Likewise, Sawyer discloses a wire 7 that hooks onto a loop 6 that is secured to a pad 5. The pad does not disclose a plurality of detachable contact locations, rather has a single loop at which the wire 7 can be attached. Further, the wire 7 cannot selectively engage the pad at different locations to provide different support tensions.

Because neither Chirila nor Sawyer discloses a plurality of spaced-apart detachable contact locations on each of a first and second side piece; or a strip that provide different support tensions by selectively engaging the side pieces at different locations, Applicants respectfully submit that claim 17 is patentable.

### **Rejections Under 35 U.S.C. §103**

The Examiner rejected claims 10, 11, 13-16 and 23 under 35 U.S.C. §103(a) as being patentable over Beaudry (WO 97/42918). Applicants respectfully traverse these rejections.

The Examiner stated that the earliest application to which Applicants claim priority does not provide support for the material claimed in claim 10, and thereby relies upon Beaudry as a basis for rejection. Applicants submit that all of the claimed limitations are supported in the earliest specification dated April 21, 1997, now issued U.S. Patent 5,913,873.

The Examiner did not state what limitations were believed to be not supported. Thus, Applicants direct the Examiner to the below-listed examples of support in U.S. Patent 5,913,873 for the general limitations of which the Examiner asserts Beaudry as the basis for rejection.

- with respect to the bilaterally symmetrical limitation - see column 5, lines 31-33;
- with respect to the longitudinal dimension being located between reduced longitudinal dimensions- see column 5, lines 50-53;
- with respect to the traverse dimension being 10-17 cm - see column 6, lines 54-56; and
- with respect to the longitudinal dimension being 5-18 cm - see column 6, lines 43-46.

Because the subject matter of claim 10 is supported by the earliest parent application (now U.S. Patent 5,913,873), claim 10 is afforded the benefits of that parent's filing date. U.S. Patent 5,913,873 was filed on April 21, 1997, prior to the international publication date of Beaudry (November 20, 1997). Applicants respectfully request that the rejection of claims 10, 11, 13-16 and 23 be withdrawn.

#### **Allowable Subject Matter**

The Examiner indicated that claims 1-9 and 38-40 are allowed. The Examiner further indicated that claims 18, 19, 21, 22, and 26 would be allowable if rewritten in independent form. Applicants thank the Examiner for this notification.

Objected-to claims 21 and 22 depend upon allowed claim 1. Applicants therefore respectfully submit that claims 21 and 22 are patentable.

Claim 37 recites a nasal support device for supporting tissue overlying first and second nasal passages having an adhesive layer, a surface layer, and one or more support structures having lengths that extend along the traverse dimension of the surface layer. The Examiner did not reject this claim. Applicants ask that the Examiner provide the status of claim 37 in the next communication.

#### **New Claims 41-45**

New independent claim 41 includes limitations similar to claim 24 and further recites that the first transverse dimension that bisects the center longitudinal dimension is longer than the center longitudinal dimension. Applicants respectfully submit that the prior art does not disclose the recited limitations of claim 41. Therefore, Applicants submit that claim 41, and dependent claims 42-45, are patentable.

#### **SUMMARY**

It is respectfully submitted that each of the presently pending claims (claims 1-11, 13-19, 21-26, 27-33, and 37-45) is in condition for allowance and notification to that

effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.


Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct.

Applicants reserve the right to raise these arguments in the future.

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Specification**

The paragraph beginning on page 1, line 8 has been replaced with the following paragraph:

The present application is a continuation-in-part of U.S. Serial No. 09/018,603, filed February 4, 1998, now U.S. Patent No. 6,033,422, which is a continuation-in-part of U.S. Ser. No. 08/843,741 filed April 21, 1997, now U.S. Patent No. 5,913,873, the entire disclosure of each of these applications is incorporated herein by reference herein.

**In the Claims**

Please cancel claim 26 without prejudice. Applicants reserve the right to pursue the original subject matter in a continuing application.

Please amend claims 17, 24, 29, and 31-33 as follows:

17. (Five Times Amended) A support device for supporting tissues overlying a first and second nasal passage of a horse, said device comprising:
- a first side piece for applying over said first nasal passage, the first side piece having a plurality of spaced-apart first detachable contact locations;
  - a second side piece for applying over said second nasal passage, the second side piece having a plurality of spaced-apart second detachable contact locations; and
  - a bridge piece comprising a strip, the strip including a first lateral region and a second lateral region for attaching and detaching said first lateral region to said first side piece and said second lateral region to said second side piece, the first lateral region being configured for selectively engaging the first side piece at one location of the plurality of spaced-apart first detachable contact locations, and the second lateral region being configured for selectively engaging the second side piece at one location of the plurality of spaced-apart second detachable contact locations, wherein the strip provides different support tensions by selectively engaging the side pieces at different locations of the plurality of first and second detachable contact locations.

24. (Three Times Amended) A nasal support device for supporting tissues overlying a first and second nasal passage, the support device comprising:

- (a) an adhesive layer for securing the support device to the tissues;
- (b) a surface layer, the surface layer configured to include:
  - (i) a center longitudinal dimension having a center longitudinal axis therethrough;
  - (ii) a first transverse dimension having a first transverse axis that is orthogonal to said center longitudinal axis and bisects said center longitudinal axis;
  - (iii) a first side and a second side positioned on opposite sides of the first transverse axis;
  - (iv) a first protrusion disposed at the center longitudinal axis that projects outwardly from the first side in a direction generally along the center longitudinal axis; and
  - (v) a second protrusion disposed at the center longitudinal axis that projects outwardly from the second side in a direction generally along the center longitudinal axis; and
- (c) one or more support structures having lengths that extend along the transverse dimension of said surface layer.

29. (Twice Amended) A nasal support device for supporting tissues overlying a first and second nasal passage, the support device comprising:

- (a) an adhesive layer for securing the support device to the tissues;
- (b) a surface layer, the surface layer configured to include:
  - (vi) a center longitudinal axis;
  - (vii) a first transverse dimension having a first transverse axis that is orthogonal to said center longitudinal axis and bisects said center longitudinal axis;
  - (viii) a first side and a second side positioned on opposite sides of the first transverse axis;

- (ix) [a] first and second centering structures [structure] disposed at the longitudinal axis for use in centering the center longitudinal axis of said nasal support device between the first and second nasal passages;
- (x) said surface layer having a major longitudinal dimension at the first and second centering structures [structure] and reduced longitudinal dimensions positioned on opposite sides of the centering structures [structure]; and
- (c) one or more support structures having lengths that extend along the traverse dimension of said surface layer.

31. (Amended) The nasal support device of claim 29, wherein:

- (a) the first and second centering structures are [structure is] symmetrically disposed along the center longitudinal axis.

32. (Amended) The nasal support device of claim 29, wherein:

- (a) at least one of the first and second centering structures [structure] comprises an apex.

33. (Amended) The nasal support device of claim 29, wherein:

- (a) at least one of the first and second centering structures [structure] comprises a protrusion.

New claims 41-45 have been added.